United Nations A/63/286

General Assembly

Distr.: General
28 August 2008
English
Original: French

Sixty-third session
Item 67 (b) of the provisional agenda*
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Protection of and assistance to internally displaced persons

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Representative of the Secretary-General on the human rights of internally displaced persons, Mr. Walter Kälin, in accordance with General Assembly resolution 62/153 and Human Rights Council resolution 6/32.

* A/63/150 and Corr.1.

08-46097 (E) 170908 170908

Report of the Representative of the Secretary-General on the human rights of internally displaced persons

Summary

In his fourth report to the General Assembly pursuant to its resolution 62/153, the Representative of the Secretary-General on the human rights of internally displaced persons describes the activities undertaken during the period from August 2007 to July 2008 in implementation of his mandate.

Because the submission of this report coincides with the tenth anniversary of the Guiding Principles on Internal Displacement, the Representative has taken the opportunity to review the major accomplishments of the past decade and the remaining challenges to improved protection for the rights of displaced persons.

The Representative concludes the report by formulating a set of recommendations for strengthening the response in matters relating to internal displacement for the consideration of States, humanitarian agencies and donors.

Contents

		Page
I.	Introduction	3
II.	Tenth anniversary of the Guiding Principles of Internal Displacement	3
III.	Activities of the Representative of the Secretary-General during the period from August 2007 to July 2008	4
	A. Country missions	5
	B. Working visits and follow-up activities	8
	C. Visits related to displacements as a result of natural disasters	11
	D. Cooperation with regional organizations	14
	E. Mainstreaming of the fundamental human rights of internally displaced persons into all relevant parts of the United Nations system	15
	F. Capacity-building and other activities	17
IV.	Conclusions and recommendations	18

I. Introduction

1. This report is submitted by the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, pursuant to General Assembly resolution 62/153 and Human Rights Council resolution 6/32.

2. As in his earlier reports, the Representative first presents the activities which he has undertaken in implementation of his mandate during the period from August 2007 to July 2008. During this period, the Representative pursued the dialogue which he maintains with Governments, regional institutions and United Nations agencies. He also took part in the deliberations of the Human Rights Council that culminated in the renewal of his mandate, which gave him the opportunity to give a brief account of the activities undertaken in the implementation of his mandate and the ongoing challenges faced in ensuring protection for the human rights of internally displaced persons.

3. During the reporting period, the Representative also endeavoured to pay greater attention to issues linked to displacements caused by natural disasters, a matter which he believes merits greater attention from all the actors and particularly in view of the consequences of the climate change that is under way.

II. Tenth anniversary of the Guiding Principles on Internal Displacement

4. The submission of this report coincides with the tenth anniversary of the Guiding Principles on Internal Displacement. Since their formulation, the Principles, which were inspired by and are consistent with international human rights law and international humanitarian law, have gained considerably in authority. Not only have they been recognized by the General Assembly as "an important international framework for the protection of internally displaced persons",[1] but in many countries, they have also been recognized as being binding at the national level. The International Conference on the Great Lakes Region Protocol on the Protection of and Assistance to Internally Displaced Persons provides that Member States should "undertake to adhere to the principles of international humanitarian law and human rights applicable to the protection of internally displaced persons in general and as reflected in the Guiding Principles in particular".[2] The Guiding Principles have also been incorporated into national policies, notably the recent national Iraqi policy of July 2008 on displacement which, inter alia, stresses that the Guiding Principles have become part of international law (chapter 5). Similarly, the Government of Germany, in its 2008 report on that country's human rights policy, recognized that the Guiding Principles have become part of customary international law.[3]

5. In accordance with the Human Rights Council resolution concerning the renewal of his mandate,[4] the Representative has continued his efforts to further the

[1] Para. 132 of General Assembly resolution A/60/1.

[2] Article 3 of the International Conference on the Great Lakes Region Protocol on the Protection and Assistance to Internally Displaced Persons, 30 November 2006.

[3] Achter Bericht der Bundesregierung über ihre Menschenrechtspolitik in den auswärtigen Beziehungen und in anderen Politikbereichen Berichtszeitraum: 1. März 2005-29. Februar 2008, section 6.2.2.

[4] Human Rights Council resolution 6/32, para. 7 (c).

dissemination, promotion and application of the Guiding Principles and to provide support for efforts to promote capacity-building and use of the Guiding Principles, as well as the development of domestic legislation and policies. In that context, the Representative has reviewed and updated the Annotations to the Guiding Principles,[5] thereby providing a tool which should facilitate access to the sources of the law which forms the basis of the Guiding Principles. The first edition of the Annotations was well received and the Protocol adopted by the International Conference on the Great Lakes Region calls on Member States to accept their use as an authoritative source for interpreting the application of the Guiding Principles.[6] The new edition of the Annotations was launched at a round table on the tenth anniversary of the Guiding Principles, on 10 April 2008, on the occasion of the annual meeting of the American Society of International Law.

6. In order to mark the tenth anniversary of the Guiding Principles, a high-level international conference, organized by the Government of Norway, will be held in Oslo on 16 October 2008. The conference, which is being jointly organized with the Norwegian Refugee Council, the Representative of the Secretary-General on the human rights of internally displaced persons and the Brookings-Bern Project on Internal Displacement, will pay particular attention to the integration of the Guiding Principles into national law and policy, to their relevance in situations in which displacement is caused by natural disaster and other environmental factors, and to the prospects for the elaboration of legally binding instruments on the protection of and assistance to displaced persons at the regional and subregional levels.

7. The Oslo conference will also be the occasion on which the legislators' handbook on which the Representative has been working for three years in cooperation with the Brookings-Bern Project on Internal Displacement will be launched. The aim of the handbook is to provide guidance on ways of incorporating the human rights of internally displaced persons into internal displacement laws and policies at the national level. On 16 and 17 May 2008, the Government of Austria invited experts from United Nations agencies, representatives of Governments dealing with problems of displacement, and representatives of the academic world and civil society to a meeting at which a preliminary draft of the text was revised.

III. Activities of the Representative of the Secretary-General during the period from August 2007 to July 2008

8. The Representative took part in the debates of the sixth session of the Human Rights Council, during which it was decided to extend the mandate of the Representative of the Secretary-General on the human rights of internally displaced persons so that he could, inter alia, address the complex problem of internal displacement and work towards strengthening the international response to displacement situations.[7] In his statement, the Representative recalled that more

[5] Water Kälin, *Annotations to the Guiding Principles on Internal Displacement*, published by the American Society of International Law and the Brookings Institution-University of Bern Project on Internal Displacement, *Studies in Transnational Legal Policy, No. 38, The American Society of International Law, Washington, D.C., 2008*.

[6] International Conference on the Great Lakes Region, Protocol on the Protection of and Assistance to Internally Displaced Persons, article 6, para. 2, 30 November 2006.

[7] Human Rights Council, resolution 6/32, para. 6 (b).

than 25 million people were currently displaced as a result of conflicts and that the trend was continuing. He stressed that the strategy for which he had opted in implementing his mandate was based on several elements: the establishment of a solid normative framework for the protection of internally displaced persons; a clear political will to implement those norms; the strengthening of the capacities of States which have primary responsibility to protect and assist displaced persons; and the shared capacity of the international community to respond to new challenges in the field of displacement. The Representative concluded that his mandate as currently formulated was sufficiently flexible to allow him to intervene at various levels and in a variety of ways to strengthen the protection of displaced persons. In that regard, he emphasized the mandate that he has been given to integrate the rights of displaced persons into the work of United Nations institutions which, in his view, has led to very fruitful cooperation with numerous institutions.

9. At the eighth session of the Human Rights Council, the Representative presented his annual report and the reports on the missions undertaken in Azerbaijan, the Central African Republic, the Democratic Republic of the Congo and Sri Lanka. As in previous years, the presentation of the reports was followed by a lively dialogue with the delegations present. In his report to the sixty-second session of the General Assembly, the Representative had already had the opportunity to present a summary of the conclusions and recommendations which he had made subsequent to his missions to Azerbaijan and the Central African Republic. In this report, he will therefore refer only to the missions to the Democratic Republic of the Congo and Sri Lanka.

10. As part of his ongoing dialogue with Governments, the Representative, in addition to country missions, continues to the extent possible to pay working visits and visits in follow-up to missions which he or his predecessor undertook in the past.

A. Country missions

Sri Lanka

11. The Representative made an official visit to Sri Lanka from 14 to 21 December 2007, at the invitation of Government authorities.[8] In addition to the capital Colombo, he visited the districts of Puttalam, Vavuniya, Trincomalee and Batticaloa. The purpose of the mission was to identify the major obstacles to the achievement of durable solutions for displaced persons.

12. At the conclusion of his visit, the Representative commented on the complexity and scale of the problem of internal displacement in Sri Lanka. He noted that populations were displaced mainly as a result of conflict. Some 300,000 persons are estimated to have been displaced since 2006 as a result of conflict. At the same time, some populations have remained displaced for more than 15 years, as in the case of the northern Muslim populations in the Jaffna and Puttalam areas.

13. The Representative also noted that a very small number of those who had been displaced as a result of the tsunami were still displaced in the Eastern Province.

[8] The report on the Representative's mission to Sri Lanka was submitted to the Human Rights Council as document A/HRC/8/6/Add.4.

14. At the conclusion of his mission, the Representative noted that the overwhelming concern of both displaced persons and returnees in Sri Lanka was security. The sources of insecurity included the tactics of the security forces; continued incursions and attacks by the Liberation Tigers of Tamil Eelam (LTTE); threats and attacks by irregular armed groups, including the Tamil Makkal Viduthalai Pulikal (TMVP); forced disappearances by all the parties to the conflict as well as abductions by unidentified persons; looting; and incomplete mine clearance. The Representative also expressed his concern over the limited access by displaced persons to their means of livelihood owing to the security situation.

15. The Representative acknowledged the efforts of the Sri Lankan Government to address the situation of displaced persons as well as its desire to find durable solutions to the situations of those who have been displaced for many years. He nonetheless made a number of recommendations with a view to protecting civilian populations and preventing, to the extent possible, new displacements. He called on all parties to the conflict to honour their obligations under international humanitarian law and international human rights law, and in particular to facilitate humanitarian relief and safe passage for all civilians seeking safety. In addition, in accordance with the Guiding Principles, he urged the Sri Lankan Government to develop a comprehensive policy to address all aspects of internal displacement, assign institutional responsibility clearly, and ensure the protection of the rights of displaced persons.

16. The Representative also called on the Sri Lankan Government to increase consultation and information-sharing with displaced persons and returnees, as well as with humanitarian actors, with a view to enhancing the humanitarian response and alleviating the sense of insecurity.

17. As a follow-up to this mission, the Representative plans to take part in a national consultation on durable solutions for persons displaced in Sri Lanka as a result of the armed conflict. The consultation is planned for the end of September and is being organized jointly by the Sri Lankan Government, the Office of the United Nations High Commissioner for Refugees (UNHCR), and the Representative. The conclusions and recommendations adopted at that time will form the basis for development of the action plan for durable solutions for displaced persons envisaged by the authorities.

Democratic Republic of the Congo

18. At the invitation of the Congolese Government, the Representative undertook an official mission to the Democratic Republic of the Congo from 12 to 22 February 2008.[9]

19. Following his visit, the Representative concluded that the eastern part of the Democratic Republic of the Congo was in the midst of a serious protection crisis and a serious humanitarian crisis, highlighted inter alia by the magnitude of the phenomenon of displacement in that country. The number of displaced persons is estimated at over 1.2 million.

[9] The report on the Representative's mission to the Democratic Republic of the Congo was submitted to the eighth session of the Human Rights Council as document A/HRC/8/6/Add.3.

20. The Representative is of the opinion that people have been forced into displacement primarily owing to clashes between the Armed Forces of the Democratic Republic of the Congo (FARDC) and the various armed groups present in the east of the country, and to clashes among the armed groups themselves. He also noted with concern that the climate of insecurity and widespread violence was a further cause of much of the displacement. This insecurity, which was found mainly in the provinces of North Kivu and South Kivu, was the result of numerous killings, systematic rape and forcible recruitment of children and young adults, as well as other forms of abuse and human rights violations committed against the civilian population by armed groups and members of FARDC, among other factors.

21. The Representative noted that displaced persons lived in extreme insecurity and were subject to violence, including acts of sexual violence and forcible recruitment of children. In addition, a large number of them have lost the voter cards which also serve as identity cards, making them even more vulnerable.

22. With regard to humanitarian assistance, the Representative noted that, although the vast majority of displaced persons were living with host families, most of the aid was sent to the camps for displaced persons, whether informal or organized. The host communities and families received comparatively little aid, although many of them were overwhelmed by the burden of supporting the new arrivals and were often at the limits of their capacity. He also noted that humanitarian access to the most vulnerable groups was often restricted.

23. At the conclusion of his visit, the Representative noted that the authorities were aware of the challenges posed by the magnitude of the problem of internal displacement in the Democratic Republic of the Congo and the conditions under which displaced populations lived. Nevertheless, while taking account of the limited resources of a country in the middle of a transition, he regrets that greater efforts have not been made to provide them with assistance and that a legal framework has not been developed to address these issues. He believes that the adoption of peaceful solutions to the present conflicts, the renunciation of violence, scrupulous respect by all actors for the guarantees set out in humanitarian law and human rights instruments, and an unfailing commitment to combating impunity are essential in order to put an end to the serious violations of human rights suffered by the displaced persons in the eastern part of the Democratic Republic of the Congo. He is of the opinion that continued dialogue is the only way out of the conflict affecting the country, and that any resort to arms would lead to disastrous consequences for the civilian population, especially the hundreds of thousands of persons who have already been displaced or who would be forced to flee as a result of such operations.

24. In this context, and in accordance with the Guiding Principles, the Representative recommended the development of a two-pronged strategy:

(a) First, the political dialogue between the Government and the various armed groups and other concerned parties should be continued. In this regard, the statements of commitment signed at the Conference for Peace, Security and Development in North and South Kivu, held in Goma in January 2008, on a common approach to end the threat posed to peace and stability in both countries and the Great Lakes region, as well as the joint communiqué signed in Nairobi on 9 November 2007, potentially offer genuine opportunities for stabilization, and, for the displaced persons, a possible return home.

(b) Second, strengthening of humanitarian assistance and activities for the protection of displaced populations as well as early recovery measures where returns are envisaged or already under way. Support for host families should also be increased.

25. The Representative is concerned that, since his visit, displacements have continued and that more than 65,000 new cases have been reported for the second quarter of 2008. He is also concerned at the continued climate of widespread insecurity, generalized violence against the civilian population and violations of human rights that put populations at risk of fresh displacements and pose an obstacle to the return of those already displaced.

B. Working visits and follow-up activities

Afghanistan

26. The Representative visited Afghanistan from 11 to 17 August 2007 to participate in a conference organized by the United Nations on the protection of civilians. He took the opportunity to discuss with Vice President Karim Khalili, several ministers and representatives of international agencies and non-governmental organizations on the situation of displaced persons in the country.

27. The Representative expressed his concern at the number of persons displaced as a result of military operations and fighting in the south of the country, which has the potential to increase significantly if the conflict continues at the present pace. He also believes that the situation could worsen and that the number of displaced persons could rise if refugees returning from Pakistan or the Islamic Republic of Iran are unable to return to their places of origin or become integrated in another region, or if the volume of such returns exceeds the ability of Afghan society to absorb them. The Representative also deplores the difficulties encountered by humanitarian personnel in gaining access and providing assistance to such populations as a result of the prevailing insecurity.

28. On the subject of protection against displacement, the Representative called on all parties to comply with international humanitarian law to help minimize the scale and duration of displacement. In particular, he stressed the obligation to respect the distinction between civilians and combatants, the principle of proportionality and the obligation to take all necessary precautionary measures. In addition, the Representative called the attention of the Government and humanitarian organizations to the need, in the quest for durable solutions for displaced persons, to pay special attention to the right to security, shelter and means of livelihood, as well as the need to address land disputes and the question of land redistribution.

29. The Representative recommended that Government authorities and the international humanitarian community should evaluate the needs of displaced persons not only in terms of assistance and protection, but also in the framework of the search for durable solutions. He also called for the development of a national strategy on internal displacement and the clear identification of coordination machinery and specification of responsibilities. The evaluation has since been completed. The Representative is continuing the dialogue on these issues with the United Nations country team, and welcomes the fact that the evaluation and efforts to enhance coordination are under way.

Norway and Canada

30. The Representative visited Norway on 9 November 2007 and Canada on 5 February 2008. These visits enabled him to renew his excellent relations with the authorities of these countries and to discuss matters of common interest.

Kenya

31. The Representative made a working visit to Kenya from 19 to 25 May 2008 at the initiative of the Office for the Coordination of Humanitarian Affairs and with the agreement of the Government of Kenya in order to gain a better understanding of the situation of persons who had been displaced following the post-electoral violence in December 2007 and January 2008 and to make recommendations to stakeholders so that they could better address the needs of displaced persons for protection.

32. During his stay, the Representative met with the main stakeholders working on displacement issues at both the national and international levels. He also undertook field visits to Nakuru, Molo, Burnt Forest and Eldoret as well as to the capital.

33. The Representative recognized that displacements as a result of post-electoral violence are not a new phenomenon in Kenya and that many people had fled their homes in similar circumstances in 1992 and 1997. With regard to the events of December 2007 and January 2008, it was estimated that between 350,000 and 500,000 persons had been displaced at the height of the crisis. In February 2008, an estimated 300,000 persons were in camps and probably an equivalent number were being accommodated by host families.

34. The Representative was impressed by the speed and efficiency of the humanitarian response in the emergency phase, given the challenges posed by sudden emergencies of that magnitude. He nevertheless noted that many challenges remained in the transition from the emergency to the early recovery phase.

35. On 5 May 2008, the Kenyan Government launched Operation Rudi Nyumbani (Operation Return Home). In view of the crucial importance of farmers to national food security, the aim was to focus on that population group initially so that they could return to their fields for the planting season. As most homes had been destroyed and the majority of the displaced persons still felt unsafe in their home communities, the returnees moved into transitional community centres close to their fields rather than returning to their homes. The Representative was concerned by the way in which the return operation had been carried out, as many displaced persons did not have adequate shelter, humanitarian assistance or the tools and seeds needed to resume their agricultural activities. He was also concerned at the fate of landless farmers and small businessmen who would not have a place to return to in order to continue with their lives if the authorities did not take special action. He recommended that the Kenyan Government slow down the process of return so that more information could be gathered and in order to strengthen coordination and planning between the various central and local government agencies involved, and between the Government and its humanitarian partners.

36. The Representative also welcomed the willingness shown by the Kenyan authorities to seek durable solutions to the problem of displacement. He emphasized in that context that resolving the problem of displacement and avoiding future displacements were inextricably linked to the need to ensure peace and

reconciliation between the communities. The Representative also emphasized the need to respect the four basic conditions for the return of displaced persons: (a) return should be voluntary; (b) the security of returnees should be guaranteed; (c) the property of displaced persons should be returned to them and their houses rebuilt; and (d) an environment conducive to their permanent return should be created, and access by returnees to income-generating activities assured. He called on the authorities, international agencies and donors to strengthen their activities and their commitment in those areas.

Bosnia and Herzegovina

37. The Representative undertook a working visit to Bosnia and Herzegovina from 16 to 20 June 2008 at the invitation of the Minister of Human Rights and Refugees. That visit was a follow-up to his official mission to the country in June 2005. During his stay, he had meetings with the main national and international stakeholders working with displacement issues. In addition to the capital Sarajevo, he also had the opportunity to visit the provinces of Doboj, Kotor Varos, Bosansko Grahovo, Mostar, Capljina, Jablanica and Konjic.

38. As agreed with the Ministry of Human Rights and Refugees, the objective of the visit was twofold: on the one hand to evaluate the progress made in the integration of displaced persons; and on the other hand to make recommendations to the Government and the international community in the context of the ongoing review of the strategy for implementation of annex IV to the General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Peace Agreement) regarding solutions to the problems of refugees and displaced persons, including their return.

39. The conflict that had taken place in Bosnia and Herzegovina from 1992 to 1995 had resulted in the displacement of approximately 2.2 million persons, or nearly half the population. After the signing of the Dayton Peace Agreement, it was estimated that the majority of the displaced persons had been able to return to their places of origin or rebuild their lives in another country. Today, nearly 120,000 persons are still displaced. The improved security situation after the war, the plan for the implementation in 2002-2003 of the property law and the rebuilding of homes have contributed significantly to the increase in the number of displaced persons belonging to ethnic minorities who have returned home. Nevertheless, it has been observed that over the last few years, fewer refugees and displaced persons have been returning permanently to the places where they had lived prior to the war. Among minority groups, in particular, a significant percentage of those registered as having returned to their communities of origin did not stay. The decline in the number of returnees is due to the fact that in many areas the conditions for permanent return do not yet exist.

40. During the visit, the Representative expressed his dismay at seeing that 13 years after the war, many people continued to be displaced or to live in impoverished conditions in sites established for returnees. In his view, such persons, who are in need of assistance and protection, can be divided into three categories:

(a) Persons who have returned but who face legal, social, economic and political obstacles which prevent their return from being sustainable;

(b) Persons who are still displaced but who are deterred from returning by the conditions mentioned above;

(c) Persons who are too vulnerable or choose not to return and who need humanitarian support and assistance to resettle in their current place of residence or elsewhere in the country.

41. The Representative noted with satisfaction the Bosnian Government's many recent efforts to assist the displaced population, particularly since the attention of the international community has decreased. In 2008, the funds allocated to the Ministry of Human Rights and Refugees to support the return process were significantly increased and, for the first time, a portion of the funds was allocated for adopting measures to ensure that returns were permanent.

42. In order to find solutions to the remaining problems arising from the displacements caused by the conflict, the Representative recommended that the Bosnian Government should take urgent action to resolve about 8,000 humanitarian cases, in other words, to integrate the most vulnerable persons still in community centres or other forms of temporary accommodation and who are unable to return, to help them to live decently. The Representative also emphasized that the success of the return process should be measured by the real opportunities offered to the returnees, especially those belonging to minority groups, to rebuild their lives and reintegrate themselves into society in their places of origin.

43. The Representative also recommended that the revised strategy for implementing annex VII to the Dayton Peace Agreement should focus on activities to make returnees stay permanently and create mechanisms and allocate the resources needed to achieve that important goal. These activities should include rebuilding homes and infrastructure, creating opportunities for the persons concerned to earn a living, and combating discrimination against minorities, particularly in access to employment and the use of symbols or the perennial obstacles resulting, for example, from the incompatibility of the health systems of the different agencies involved, which prevents people from fully enjoying their rights to health and social security.

44. Finally, the Representative also called on the international community to support the Bosnian Government in the implementation of projects for displaced persons, using a needs-based approach and giving priority to the most vulnerable groups.

C. Visits related to displacements as a result of natural disasters

45. Recently, the Representative has focused in particular on the challenges of protecting persons displaced as a result of natural disasters. In addition to taking an active part in developing a regulatory framework and in particular the Operational Guidelines on Human Rights and Natural Disasters in cooperation with the Inter-Agency Standing Committee, the Representative made several working visits to countries in the Americas and Africa to gain a better understanding of the measures taken by the different actors in response to displacement as a result of natural disasters and to engage the authorities and the different actors concerned in a dialogue aimed at improving the protection of persons displaced by such disasters. Following these visits, the Representative wishes to submit a summary report on the

protection of persons displaced as a result of natural disasters to the tenth session of the Human Rights Council.

46. The Representative also made a presentation at the humanitarian segment of the Economic and Social Council on the link between climate change and migration/displacement. He also presented the Operational Guidelines on Human Rights and Natural Disasters at a panel meeting organized by the Swiss Government on the protection of persons affected by natural disasters during the humanitarian segment of the Council.

United States of America

47. The Representative went to the United States from 14 to 18 January 2008 for a working visit to study the impact of hurricane Katrina, which had devastated the south-eastern coast of the country between 29 August and 1 September 2005, on the situation of the persons who are still displaced as a result of this disaster.

48. During his visit, the Representative went to Houston (Texas) and New Orleans. He held discussions with Government officials and the American Red Cross, local elected officials, members of civil society and displaced persons.

49. The visit showed that the main challenges for most of the persons still displaced, many of whom were in a very vulnerable situation, belonged to ethnic minorities or lived in poverty, were access to adequate assistance for rebuilding their houses or to decent housing at affordable prices, access to jobs, the very low level of their incomes and poor prospects in the medium and long term.

50. During his stay, the Representative conducted several workshops, attended by municipal officials and representatives of the various affected communities, to develop a common approach to the measures that should be adopted to ensure lasting solutions to the situation of displaced persons.

Honduras and Panama

51. The Representative paid a working visit to Honduras from 6 to 10 May 2008. The objective of the visit was to engage in a dialogue with the Government, civil society and international organizations in order to better appreciate their experiences in dealing with the human consequences of natural disasters and to better understand the protection needs of persons displaced by such disasters. The visit to Honduras was followed by a regional workshop on human rights and natural disasters, which was held in Panama on 12 and 13 May 2008. This workshop was organized in cooperation with the Brookings-Bern Project on Internal Displacement and the Office for the Coordination of Humanitarian Affairs Regional Office. The workshop was attended by some 24 participants, who were mostly from United Nations agencies but also including specialists in disaster risk management from various countries of the subregion. In addition to formal presentations, the aim of the workshop was to promote a law-based humanitarian response to natural disasters and to allow the different participants to share their experiences and analysis on displacement caused by natural disasters.[1]

52. During his visit to Honduras, the Representative met with senior Government officials responsible for managing the response to natural disasters and their consequences, as well as with representatives of international organizations and civil society.

53. The Representative welcomed the ongoing elaboration of a law on the national system for natural disaster risk management, which is certain to strengthen the normative framework in that area. As Honduras is one of the countries most exposed to the risk of natural disasters, the Representative made a number of recommendations to the authorities to help them respond more effectively to the challenges ahead. He recommended, in particular, the systematic incorporation of disaster risk-reduction measures into national development programmes, the provision of financial and technical risk management support to municipalities and taking of the necessary measures to systematically address the need to protect the human rights of persons affected by natural disasters, including displaced persons or indigenous communities affected by displacement.

54. Lastly, the Representative recalled that the main challenge following a natural disaster was to rebuild the lives of the people affected and emphasized the need to focus on the search for lasting solutions for displaced persons.

Mozambique, Madagascar and South Africa

55. In July 2008, the Representative made successive visits to Mozambique and Madagascar as part of the series of working visits that he has undertaken on issues related to natural disasters. The aim of these visits was to gain access to firsthand information on the steps taken to meet the challenges posed by the displacement of people in the subregion. Following these visits, the Representative travelled to South Africa, where he participated in a regional workshop on displacement, organized by the Office for the Coordination of Humanitarian Affairs Regional Office.

56. At the conclusion of his visit to Mozambique, the Representative recognized the impressive efforts made by the Government and other local stakeholders, with the support of the United Nations system, to protect the human rights of persons displaced by regular flooding. He noted in particular the institutional arrangement put in place to respond to these disasters, which has helped considerably to reduce the loss of human life from the floods that occur every year. He considers that such an arrangement could serve as a model for other countries.

57. The Representative nevertheless emphasized that a number of complex challenges remained in the early recovery phase. He referred in particular to issues arising from the resettlement of populations in safe areas and the trade-off between the obligation of Government to protect the lives of displaced persons and the right of such persons to move freely and to choose their place of residence. While welcoming the positive aspects of the current resettlement process for the populations concerned, the Representative recommended that the authorities should establish consultation processes with the populations concerned so that they could fully participate in decision-making that affected their lives. The Representative also underlined the importance of ensuring that the affected populations enjoyed the right to adequate housing, health and education, particularly in the resettlement areas. In order to prevent displaced persons from returning to high-risk areas, it is important to ensure that they have access to their livelihoods.

58. During his visit to Mozambique, the Representative held meetings with the ministers responsible for managing the consequences of natural disasters, with the representatives of international and non-governmental organizations and also with

displaced persons. He visited the capital, Maputo, and toured the resettlement centres in the Caia region.

59. In Madagascar, which is regularly affected by cyclones, floods and droughts, the Representative welcomed the reform of the natural disaster emergency response agencies. He also noted the important role that the United Nations system played in enhancing the response capacity and the coordination of humanitarian actors.

60. While recalling that national authorities bear the primary responsibility for assisting populations affected by natural disasters, including displaced persons, the Representative emphasized the importance of the efforts to be made by the local authorities. In this context, the Representative recommended that steps should be taken to build capacities at the regional and local levels. He also highlighted the need for measures to protect the most vulnerable people from discrimination and exploitation, particularly female heads of households and girls or elderly persons without family support.

61. In Madagascar, displacements caused by natural disasters often last only a few days or weeks. Nevertheless, the Representative noted that the ability of returnees to recover presented a real challenge. In order to better meet the need during this phase to protect and assist the persons affected, who often live in very precarious conditions, the Representative called on the international community and donors to support the Malagasy authorities in their efforts to restart rehabilitation and income-generating activities.

62. During his mission, the Representative met with the representatives of several ministries involved in disaster emergency response. He was particularly pleased to have the opportunity to meet with the Prime Minister. He also held meetings with United Nations officials, representatives of civil society and people who had been affected by natural disasters.

D. Cooperation with regional organizations

63. During the period under review, the Representative continued his dialogue with regional organizations and, as far as possible, supported their efforts with a view to better protecting the rights of displaced persons, including by strengthening the normative framework at the regional level.

64. As in the past, the Representative continues to have close contacts with the Special Rapporteur on Refugees, Asylum Seekers and Displaced Persons in Africa from the African Commission on Human and Peoples' Rights. For two years now, he has been hoping to undertake a mission with him to the Sudan in order to gain insight into the situation of displaced persons in Darfur and the pattern of returns in the south of the country.

65. The Representative also continues to work closely with the African Union on its initiative to elaborate a convention on internally displaced persons. He therefore played an active part in discussions on this draft at the invitation of the African Union. In particular, he was represented at the meeting of national legal experts held in April 2008 and made a point of personally participating in the second meeting of experts held in Addis Ababa in June 2008.

66. The Representative has paid particular attention in 2008 to the issue of internal displacement in countries of French-speaking Africa. In this context, he hopes to be able to work closely with the International Organization of la Francophonie (OIF) to better protect the rights of displaced persons in the member countries of OIF. The Representative had an initial meeting with the Permanent Representative of OIF to the United Nations Office at Geneva and expressed satisfaction at their fruitful discussion on the challenges faced by French-speaking countries which are experiencing situations of internal displacement and on the avenues of cooperation to explore in the future. The Representative also noted with satisfaction that OIF had been represented for the first time on the law course on internal displacement, held in San Remo (Italy).

E. Mainstreaming of the fundamental human rights of internally displaced persons into all relevant parts of the United Nations system

67. As part of his ongoing efforts to ensure better integration of the rights of displaced persons into the activities of the competent United Nations bodies in accordance with his mandate, the Representative continued to work closely during the period under review with the Office for the Coordination of Humanitarian Affairs, the Inter-Agency Standing Committee, the Office of the United Nations High Commissioner for Refugees, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Peacebuilding Commission.

Office for the Coordination of Humanitarian Affairs

68. As in the past, the Representative continued to work closely with the Office for the Coordination of Humanitarian Affairs and with the Emergency Relief Coordinator, one of whose colleagues has the task of supporting the work of the Representative. Through them, the Representative was invited to contribute to major documents prepared by the Office for the Coordination of Humanitarian Affairs and benefited from its support in the preparation of his missions and working visits. The Representative also cooperated closely with the Office in the organization and conduct of his working visits on natural disasters and the seminars held during the visits. He also participated in the Office's major activities, such as the seminar organized in Kabul in August 2007 on protection of civilians.

Inter-Agency Standing Committee

69. The Representative continued to participate actively in the deliberations of the Inter-Agency Standing Committee, at both the level of principals and that of the working group.

70. As regards the work of the working group on protection, the Representative made a substantial contribution to the preparation of the handbook for the protection of internally displaced persons, which was published informally in December 2007 for testing by the different partners working in the field. He was also the focal point for the activities of the working group on protection related to natural disasters. In this regard, he also drew the attention of the members of the working group to the need for greater focus on the conceptual and practical challenges posed by protection issues in the context of natural disasters.

71. A seminar on early recovery, in the context of the search for lasting solutions for displaced persons, was held in Geneva from 28 to 30 May 2008 by the United Nations Development Programme's Bureau for Crisis Prevention and Recovery, in partnership with the Representative, the Office of the United Nations High Commissioner for Refugees and the Office for the Coordination of Humanitarian Affairs. Participants included representatives of more than 15 United Nations field offices, in addition to representatives of donors, the World Bank and the Brookings Institution, who discussed how to overcome the difficulties that often plague early recovery efforts. In many cases, these difficulties are the result of lack of cooperation between specialized agencies, tensions between humanitarian and development approaches, post-conflict or post-disaster situations and the lack of a specific funding mechanism. The Inter-Agency Standing Committee's working group on early recovery will follow up on the recommendations of the seminar.

Office of the United Nations High Commissioner for Refugees

72. The Representative continued to work closely with the Office of the United Nations High Commissioner for Refugees (UNHCR), including through the presence of a colleague of the Representative in UNHCR offices. As a result, he received considerable support when organizing and conducting his field missions.

Office of the United Nations High Commissioner for Human Rights

73. Pursuant to Human Rights Council resolution 6/32, which requests the Secretary-General to ensure that the mechanism works with the support of the Office of the United Nations High Commissioner for Human Rights (OHCHR), and in accordance with the latter's mandate to provide assistance to special procedures mandate holders, the Representative continued to receive general support for the implementation of his mandate, in particular as regards the organization, substantive preparation and execution of his missions. The Office also assists the Representative in organizing, jointly with the Brookings-Bern Project, the course on internal displacement that he runs each year in San Remo (Italy).

Peacebuilding Commission

74. The Representative welcomes the close cooperation that has been developed with the Peacebuilding Commission, particularly as regards the linkages between the prevention of and search for solutions to displacement, on the one hand, and the search for durable peace, on the other. Accordingly, following his first invitation to address the Commission in May 2007, the Representative was invited to participate in a thematic discussion on internal displacement in the Working Group on Lessons Learned with a view to drawing conclusions at the national and international levels from post-conflict interventions.

75. During this meeting, which took place on 13 March 2008, the Representative pointed out that the return and reintegration of displaced persons are often the solutions favoured by the persons concerned, while emphasizing that the way in which such solutions are implemented has a considerable impact on the sustainability of peace. He also outlined the following fundamental considerations:

- The mere signing of peace agreements is not sufficient to provide durable solutions for displaced persons; the quality of the process leading to durable solutions is a key element necessary for ensuring stability.

- The successful return of displaced persons requires as a minimum that their safety is guaranteed, that their property is restored and that an environment conducive to durable return is created.
- Activities relating to the re-establishment of security, the restitution of property and the creation of an environment conducive to return should as far as possible take place in parallel.
- Peacebuilding efforts should take into account the specific needs of displaced persons and returnees; funding must be rapidly available and flexible so as to avoid the traditional dichotomy between humanitarian activities and development activities.

F. Capacity-building and other activities

76. The fourth course on internal displacement was organized by the Representative from 2 to 7 June 2008. As before, the course was organized jointly with the Brookings-Bern Project and OHCHR. For the first time since its inception in 2005, the course was conducted in French so as to build capacity in French-speaking countries facing situations of displacement. As a result, the course brought together participants from sub-Saharan Africa as well as from Algeria, Haiti and Lebanon. Participants welcomed this initiative and expressed the hope that future courses would also be conducted in French.

77. As in previous years, the Representative, in cooperation with the Brookings-Bern Project on Internal Displacement, continued to carry out and commission research on internal displacement and related issues. Accordingly, a study on displaced persons and peace processes was finalized and published in September 2007.[10] This study highlights the clear linkages between the resolution of problems relating to internal displacement and the search for durable peace. It also makes a number of practical recommendations for the benefit of persons involved in peace processes. In particular, it recommends including displaced persons in peace processes; taking into account their specific needs when drafting peace agreements; and ensuring that they can play an active role in building peace.

78. The Representative also took steps to prepare, in cooperation with the United Nations Mediation Support Unit and the Brookings-Bern Project, a handbook for mediators that highlights the key principles relating to internal displacement which need to be taken into consideration when negotiating and drafting peace agreements.

79. The Brookings-Bern Project also began drafting a set of principles and a handbook for Governments, non-governmental organizations and other humanitarian personnel on when and how to involve displaced persons in decision-making processes, using the techniques of information-sharing, consultation and participation.

80. In addition to press releases relating to his missions and working visits, the Representative issued a joint statement with seven other special procedures mandate holders concerning the situation in Myanmar (28 September 2007) following the demonstrations that took place in the country in September 2007. He also issued a

[10] *Addressing Internal Displacement in Peace Processes, Peace Agreements and Peace-Building*, Brookings-Bern Project on Internal Displacement, September 2007.

joint statement with other special procedures mandate holders concerning Kenya (4 January 2008), which called on those concerned to respect their human rights obligations towards population groups, including displaced persons.

81. The Representative also sent a message to the participants in the symposium on the legal aspects of the return of displaced persons to Abkhazia (Georgia), which was organized in New York on 29 November 2007. In his message, he referred to the three types of durable solution available to displaced persons (return, integration in the area of displacement or resettlement in another part of the country) and the conditions required for a durable return, including security, the restitution of property, the reconstruction of homes and the creation of an environment conducive to return and reintegration. He welcomed the Government's adoption of the national strategy on internal displacement, which recognizes the right to return of displaced persons while at the same time allowing them to live normal lives until such time as return in safety and dignity becomes possible.

IV. Conclusions and recommendations

82. On the occasion of the tenth anniversary of the Guiding Principles, the Representative acknowledges and welcomes the progress made in the past 10 years towards greater recognition of the reality of the phenomenon of displacement, which affects tens of millions of people and has its roots in armed conflicts, natural disasters and other comparable circumstances, and of the need to respond to such situations.

83. The Representative welcomes the progress made by Governments and the international community in strengthening the protection and assistance available to displaced persons, who, as a result of their situation of displacement, have specific needs that are different from those of the non-displaced population. Nevertheless, the Representative wishes to express his concern at:

(a) The ongoing displacements in many countries, often as a result of acts of violence committed by State and non-State actors in violation of international human rights law and international humanitarian law;

(b) The large number of people who find themselves in situations of frequently prolonged displacement and the violation of their rights;

(c) The frequent difficulties in finding durable solutions for displaced persons, leaving even those who could go home or who have been resettled in a safe place in situations of deprivation, marginalization and poverty, in violation of their economic, social and cultural rights, and also of their civil and political rights;

(d) The lack, in certain countries, of the political will or capacity to respond effectively to situations of displacement and provide displaced persons with the protection and assistance they need;

(e) The increasing difficulties that humanitarian personnel face in gaining access to victims of internal displacement owing to the lack of security in some regions or, indeed, attacks against humanitarian personnel, their supplies and their means of transport;

(f) The widespread impunity, in certain contexts, of crimes against humanity and war crimes against displaced persons; and

(g) The endless difficulties that international and local stakeholders face, in certain countries, in coordinating their activities and obtaining the funds they need to be reasonably effective.

84. Against this backdrop, the Representative recalls that the Governments concerned bear primary responsibility for preventing displacement, providing assistance and protection to displaced persons and contributing to the search for durable solutions. He also recalls that non-State actors have an obligation to respect and protect the rights of displaced persons in accordance with international criminal law and international humanitarian law. He calls on all those concerned to be scrupulous in respecting their obligations under international law, as stated in the Guiding Principles.

85. As regards the Guiding Principles and their implementation, the Representative welcomes the fact that these Principles are widely accepted at the global, regional and national levels. In particular, he welcomes the drafting of national legislation and policies in countries affected by internal displacement, the entry into force of the Protocol on Protection and Assistance to Internally Displaced Persons, which was adopted at the International Conference on the Great Lakes Region, and the negotiations currently under way at the African Union on a convention on internal displacement in Africa. Against this backdrop, the Representative wishes to recommend to Governments and regional organizations that they should:

(a) Draft national legislation and policies that are in keeping with the Guiding Principles or revisit existing norms in order to ensure that the needs of displaced persons receive an appropriate response and that institutional responsibilities in this area are specified at all levels;

(b) Develop regional legal instruments based on the Guiding Principles and fully implement those instruments already in force;

(c) Fully implement existing legal and political frameworks and release the resources needed to that end.

86. As many of his missions and working visits have demonstrated, the Representative is particularly concerned that, although persons displaced as a result of conflicts or natural disasters have been able to go home, integrate locally or resettle in other regions, the solutions found might not be durable owing to the insufficient protection and assistance offered to such persons and the lack of efforts to build peace and promote development in the regions concerned. Against this backdrop, the Representative calls on Governments, humanitarian and development personnel, and donors:

(a) To ensure that returns, or any other solution, are the result of an individual decision that has been taken freely, without coercion and on the basis of adequate information;

(b) To ensure that the three elements that are required for solutions to be durable are in place: (i) the assurance of physical safety during and after return or resettlement; (ii) the restitution of property and the (re)construction of adequate housing and necessary infrastructure; and (iii) the creation of an economic and social environment conducive to durable returns, including access, without discrimination, to public services, livelihoods and income-generating activities; the

restitution or replacement of identity documents lost or destroyed during displacement; and the reinstatement of voting rights and other political rights;

(c) To take these issues into account when drafting peace agreements and reconstruction plans following a conflict or natural disaster, in consultation with displaced persons;

(d) To be more resolutely involved in activities relating to early recovery, while at the same time carrying out humanitarian, peacebuilding and development activities, taking into account the specific characteristics of each situation;

(e) To develop more appropriate funding mechanisms to bridge the current gap between emergency phase funding and development phase funding and which is responsible for the systematic underfunding of early recovery activities. Funding mechanisms must be flexible enough to respond to the needs of all communities affected by displacement, not only displaced persons themselves but also the communities that take in such persons, the communities that receive returnees and the communities in which displaced persons are resettled.